

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 236 OF 2017

SHRI. CHIDAMBAR RAMESH CHANEKAR
AND ANR.,

... Petitioners

Versus

SHRI. NAVANAND RAMESH CHANEKAR AND
ANR.,

... Respondents

Mr. Mahesh Amonkar, Advocate for the petitioners.

Coram:- C. V. BHADANG, J.

Date:- 27th June, 2017

P.C.

Heard Shri Amonkar, the learned Counsel for the petitioners.

None appears for the respondents, although served.

2. The petitioners, who are the original defendants, are challenging the order dated 09/02/2017, passed by the learned Civil Judge, Junior Division, Margao in Regular Civil Suit No.215/2011/E. By the impugned order, application for amendment of the plaint and for addition of parties filed by the respondents/ plaintiffs, has been allowed.

3. The brief facts are that the respondents had filed the aforesaid suit for declaration, injunction and consequential reliefs. The respondents are, inter alia, claiming the following substantive reliefs :

"a) For a judgment and order and decree declaring the application for purchase of the Mundkarial area and the proceedings MUND/PUR/ MAR/444/2006 together

with the purchase certificate, null and void;

- b) For an order directing the Commissioner of Excise to cancel the transfer of licence RS/FCL/628 in the name of the defendant No.1;
- c) For an order permanently restraining the defendants from operation and/ or doing business in the premises bearing House No.377, situated at Borda, Margao in the name of Rekha Bar or any other name;"

4. The material dispute between the parties appears to be an Excise Licence granted by the Commissioner of Excise bearing No.RS/FCL Part 628, which is standing in the name of the petitioner no.1. After the parties had closed their evidence, the respondents filed an application seeking to implead; (i) State of Goa (ii) Collector of Goa, (South); and (iii) Commissioner of Excise as party defendants to the suit. The said application has been partly allowed by the learned Trial Court, by directing addition of State of Goa and The Commissioner of Excise as party defendants.

5. I have considered the submissions made and I have gone through the impugned order passed.

6. The learned Trial Court, in the impugned order, has found that, for grant of declaration that the Purchase Proceedings together with Purchase Certificate are null and void, it is not necessary to direct addition of Collector of Goa as party and the said question can be adjudicated even in the absence of

Mamlatdar and the Collector. The learned Trial Court has also noticed that the suit is of the year 2011 and the application is belated. However, according to the learned Trial Court, the petitioners can be compensated with costs. In such circumstances, the application was partly allowed subject to costs of Rs.2,000/-.

7. On giving my anxious consideration to the circumstances and the submissions made, I do not find that any case for interference is made out.

8. The impugned order cannot be said to be suffering from any patent error muchless resulting into any manifest injustice, requiring interference under under Article 227 of the Constitution of India. (See Judgment in SHALINI SHYAM SHETTY VS. RAJENDRA SHANKAR PATIL; 2010 (8) SCC 329). In the result, the petition is hereby dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA